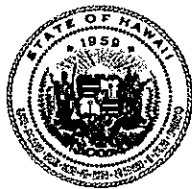


Revised: 1/23/12

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO
INTERIM DIRECTOR

Deputy Directors
JADE T BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:

February 8, 2012

HB 1850
RELATING TO PERSONAL INFORMATION

HOUSE COMMITTEE ON TRANSPORTATION

The Department of Transportation supports HB 1850. Driver's licenses and identification cards contain personally identifiable information (PII) that is protected with the utmost care at government agencies, card issuing stations and card production locations. This bill takes the protection of this PII a step further by requiring card holders to give their express consent prior to a third party scanning and retaining PII from a holder's card.

Thank you for the opportunity to provide testimony.





Representative Joseph Souki, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Transportation
State Capitol, Honolulu, Hawaii 96813

HEARING Wednesday, February 08, 2012
9:00 am
Conference Room 309

RE: **HB1850, Relating to Personal Information**

Chair Souki, Vice Chair Ichiyama, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to supporting the retail industry and business in general in Hawaii.

RMH understands the intent behind HB1850, which prohibits the scanning and retention of personally identifiable information stored in the machine-readable zone of the Hawaii driver's license and identification card without the express consent of the holder of the driver's license or identification card unless used by law-enforcement officers for solely official purposes.

However, this prohibition most assuredly would hinder our legitimate uses of this information to verify the authenticity of the documents presented in order to protect our consumers from fraudulent attempts to access their personal accounts AND, more importantly, comply with the myriad of regulatory requirements that restrict sales of tobacco, alcohol, spray paint, drugs, and other products. What do we do in the case of a youthful person attempting to purchase alcohol who says "NO" to our request for identification? With today's technology, counterfeit IDs are not always visually verifiable; but they cannot pass the scrutiny of electronic scanners.

We respectfully request your consideration of the language in HB2309, with the amendments that we request in our testimony. It is critical that we achieve a balance between the individual's right to privacy and the legitimate uses of personal information for his/her protection and retailers' compliance with regulations.

Thank you for your consideration and for the opportunity to comment on this measure.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202

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TO: Representative Joseph M. Souki
Chair, Committee on Transportation
Via Email: TRNtestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: February 7, 2012

RE: **H.B. 1850 – Relating to Personal Information**
Hearing Date: Wednesday, February 8, 2012 at 9:00 a.m.
Conference Room 309

Dear Chair Souki and Members of the Committee on Transportation:

I am Gary Slovin submitting on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 400 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA submits comments regarding H.B. 1850, which prohibits the scanning and retention of personally identifiable information stored in the machine-readable zone of the Hawaii driver's license and identification card without the express consent of the holder of the driver's license or identification card unless the use is by law-enforcement officers for solely official purposes.

We understand that this bill is intended to address the potential illegitimate use of information contained in driver's licenses and state identification cards. As drafted however, this bill creates concerns for our members who may scan a driver's license to verify the identity of the check writer, to enforce bad checks, and to help prevent fraud. Under current law, merchants and other businesses are permitted to scan driver licenses for this purpose. This bill is problematic because it potentially denies access to this information.

February 7, 2012

Page 2

We believe that it is important to continue to allow the obtaining of license information through scanning technology. Scanning a license decreases manual errors, which can be problematic in the check verification process. Manual entry of licenses also backs up lines at the point of sale, which frustrates both consumers and clerks and makes purchase processes less efficient. Prohibiting scanning could also increase fraud, because, while it is easy to create a fake ID with numbers on a card, it is far more difficult to create a fake ID with numbers embedded in a magnetic stripe.

We respectfully request that the foregoing concerns be considered, and would welcome the opportunity to work with the Committee on additional language that would protect consumer privacy, while still allowing businesses to authenticate checks and prevent fraud.

Thank you very much for the opportunity to submit testimony.



Committee: Committee on Transportation
Hearing Date/Time: Wednesday, February 8, 2012, 9:00 a.m.
Place: Room 309
Re: Testimony of the ACLU of Hawaii offering comments on H.B. 1850.
Relating to Personal Information

Dear Chair Souki and Members of the Committee on Transportation:

While the ACLU of Hawaii supports the intent of H.B. 1850, it may not go far enough to ensure Hawaii residents' privacy. Because it invites abuse, please consider amending the bill to delete the provision that would allow the scanning and retention of personal information contained in a state identification card or driver's license upon the expressed consent of the card holder. This committee may also wish to consider amending the bill to correspond to the requirements of H.B. 2309, which specifies the limited purposes for which a private business would be allowed to scan and retain personal information contained in a state identification card or driver's license.

Private businesses have adopted a practice of scanning the bar codes on customer driver's licenses for all manner of purchases. Bar code scanning may be required by company policy for purchases of alcohol and other age-related transactions, including Nicorette gum, mature video games, and cold medicines.

This bar code scanning practice raises serious privacy concerns: Hawaii driver's licenses contain bar codes with significant personal information, including name, address, date of birth, hair color, eye color, height, weight, gender, license expiration date, organ donor status, driver's license number, fingerprint, medical indicators and driver classification code.

- By scanning this information for each customer, private businesses are able to keep and use this data for any purpose. There are no regulations on what they may do with this information.
- Other states, including California, Texas and Nebraska have enacted laws to strictly limit the retention and use of driver's license information by businesses and to protect driver's license privacy.

As more personal information is amassed in more databases, the likelihood increases that the information will be misused or stolen, leading to risks of identity theft. Individuals can't protect

American Civil Liberties Union of Hawaii
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Hon. Rep. Souki, Chair, TRN Committee
and Members Thereof
February 8, 2012
Page 2 of 2

the accuracy or distribution of their personal information when it is held by others. Driver's license data should only be retained by business entities where otherwise required by law. Transmission of driver's license data to third parties should be limited to situations where there is a clear need.

In Hawaii, we need a law that prohibits businesses and other private entities from swiping driver's licenses or identification cards to collect personal information which is then used for marketing purposes. While H.B. 1850 will take steps to do that, please consider the requirements of H.B. 2309, which will go further to protect our privacy by reducing this surreptitious way of copying, storing and using our personal information.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Sincerely,

Laurie A. Temple
Staff Attorney

American Civil Liberties Union of Hawai'i
P.O. Box 3410
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TO: Members of the Committee on Transportation

FROM: Natalie Iwasa, CPA
Honolulu, HI 96825
808-395-3233

REGULAR

MEETING: 9 a.m. Wednesday, February 8, 2012

SUBJECT: HB 1850 Personal Information – Opposed
HB 2309 Personal Information – Comments

Aloha Chair and Representatives,

Thank you for allowing me to provide testimony on HB 1850, which would not allow a person to scan and retain personally identifiable information from a driver's license without the express consent of the holder of the license, unless the use is by law-enforcement officers for official purposes.

Drivers' licenses are one of the documents employers use to comply with federal law regarding verification of employment eligibility. Specifically, many employers make copies of drivers' licenses to show that they properly verified employment when completing federal Form I-9, Employment Eligibility Verification.

The hiring process already requires completion of Forms W4, HW4, and I-9 as well as forms for optional participation in benefit plans, receipt of employee handbook and employer policies and other paperwork. Therefore, HB 2309, which also restricts scanning and retention of drivers' licenses but excludes certain uses, is preferable. Please vote "no" on HB 1850.

February 7, 2012

Testimony in OPPOSITION
of HB1850

RELATING TO PERSONAL INFORMATION

Presented to the House Committee on Transportation

At the public hearing 9:00 a.m., Wednesday, February 8, 2012
in Conference Room 309, Hawaii State Capitol

Submitted by David H. Rolf, for the Hawaii Automobile Dealers Association
Hawaii's Franchised New Car Dealers

Chair Souki, Vice Chair Ichiyama and members of the committee,

I'm David Rolf, representing Hawaii's franchised new car dealers.

HADA believes scanning machines that can improve efficiencies in data transfer provide a valuable service to customers in reducing their wait times at dealerships and valuable efficiencies to dealerships in improving accuracy of data previously filled in by hand.

Background:

HADA believes that while the intent of prohibiting such machine scanning is aimed at companies who make improper use of the data, the prohibition of the scanning would also penalize franchised new car dealerships who have recently contracted with companies which provide such scanning equipment to facilitate accurate data transfer into fields which were previously filled in by hand--often with the commensurate errors that accompany such hand-copying of data copied from a customer's driver's license:

We believe that with further discussion, a method can be devised to fairly address privacy concerns while allowing such scanning devices to assist with the efficiency needs of businesses transferring data.

HADA respectfully requests that the committee defer HB1850 to allow those companies adversely affected to work on a solution that meets the intent of the legislation without causing adverse consequences for businesses.

Respectfully submitted,

David H. Rolf

For the members of the Hawaii Automobile Dealers Association

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Honolulu, Hawaii 96813

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